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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 DARREN HEYMAN,

8 Plaintiff,

9 v.

10 THE STATE OF NEVADA EX REL.  
11 BOARD OF REGENTS FOR THE NEVADA  
12 SYSTEM OF HIGHER EDUCATION ON  
13 BEHALF OF THE UNIVERSITY OF  
14 NEVADA, LAS VEGAS; NEAL  
15 SMATRESK; DONALD SNYDER; STOWE  
16 SHOEMAKER, RHONDA  
17 MONTGOMERY; CURTIS LOVE; SARAH  
18 TANFORD; PHILLIP BURNS; KRISTEN  
19 MALEK; LISA MOLL-CAIN; DEBRA  
20 PIERUSCHKA; ELSA SIDHU AND DOES I  
21 - X INCLUSIVE,

22 Defendants.

Case No. 2:15-cv-01228-RFB-GWF

**ORDER**

23 Before the Court comes Plaintiff Darren Heyman (“Plaintiff”)’s Emergency  
24 Objection/Appeal of Magistrate Judge Order, (ECF No. 269), and Plaintiff’s Emergency  
25 Objection/Appeal of Magistrate Judge Order, (ECF No. 310). For the reasons stated below,  
26 Plaintiff’s motions are DENIED.

27 The Court may reconsider pretrial matters decided by a magistrate judge only if it has been  
28 established that the magistrate judge’s order is clearly erroneous or contrary to law. 28 U.S.C. §  
636(b)(1)(A); LR IB 3-1. This standard is deferential. The reviewing court “must ask whether, on  
the entire evidence, it is left with the definite and firm conviction that a mistake has been  
committed.” In re Optical Disk Drive Antitrust Litig., 801 F.3d 1072, 1076 (9th Cir. 2015)  
(citations and quotation marks omitted). “A finding is clearly erroneous if it is (1) illogical, (2)  
implausible, or (3) without support in inferences that may be drawn from the facts in the record.”

1 Ibrahim v. U.S. Dep't of Homeland Sec., 835 F.3d 1048, 1058 (9th Cir. 2016) (citation and  
2 quotation marks omitted). Under the contrary to law standard “[t]he reviewing court may not  
3 simply substitute its judgment for that of the deciding court.” Grimes v. City and Cty. of San  
4 Francisco, 951 F.2d 236, 241 (9th Cir. 1991) (citation omitted).

5 Plaintiff requests emergency reconsideration of the Magistrate Judge’s order, (ECF No.  
6 267), regarding Plaintiff’s prior Emergency Motion to Stay Proceedings, Extend Discovery  
7 Deadlines for Plaintiff, Leave to Amend the Complaint to Name Defendant Doe I, and Postpone  
8 Remaining Scheduled Depositions, (ECF No. 262). The Court has reviewed the Magistrate Judge’s  
9 order, and finds that the order is neither clearly erroneous nor contrary to law. The Court has  
10 additionally reviewed the underlying Motion (ECF No. 262) and finds no basis for Plaintiff’s  
11 arguments.

12 Plaintiff also requests emergency reconsideration of the Magistrate Judge’s order, (ECF  
13 No. 305), regarding Plaintiff’s prior Emergency Motion for Recusal of Magistrate Judge, (ECF  
14 No. 270). The Court has reviewed the order and the underlying Motion. The Court recognizes that  
15 Plaintiff has filed a Motion pursuant to 28 U.S.C. 144 and 28 U.S.C. § 455, and that the Motion  
16 includes a Section 144 Affidavit stating the alleged grounds for recusal. However, Plaintiff’s  
17 Affidavit is not legally sufficient as required by Section 144 and United States v. Sibla, 624 F.2d  
18 864, 867-68 (9th Cir. 1980). “An affidavit filed pursuant to [Section 144] is not legally sufficient  
19 unless it specifically alleges facts that fairly support the contention that the judge exhibits bias or  
20 prejudice directed toward a party that stems from an extrajudicial source.” Sibla, 624 F.2d at 868  
21 (citations omitted). The allegations set forth in the affidavit are largely speculative, and are  
22 Plaintiff’s characterizations of Judge Foley’s motivations for ruling. The only fact Plaintiff asserts  
23 is that Judge Foley attended UNLV, which alone is not grounds for recusal. The Court therefore  
24 finds no clear error in the Magistrate Judge’s order.

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1           Accordingly,

2           **IT IS ORDERED** that Plaintiff's Emergency Objection/Appeal of Magistrate Judge  
3 Order, (ECF No. 269), is DENIED.

4           **IT IS FURTHER ORDERED** that Plaintiff's Emergency Objection/Appeal of Magistrate  
5 Judge Order, (ECF No. 310), is DENIED.

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7           DATED: February 14, 2018.

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**RICHARD F. BOULWARE, II**  
**UNITED STATES DISTRICT JUDGE**